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*Attorneys for Plaintiff*  
 ORACLE AMERICA, INC.

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION**

ORACLE AMERICA, INC.

Plaintiff,

v.

GOOGLE, INC.

Defendant.

Case No. CV 10-03561 WHA

**DECLARATION OF DAVID BOIES IN  
 SUPPORT OF ORACLE AMERICA, INC.'S  
 OPPOSITION TO GOOGLE'S MOTION TO  
 CONTINUE TRIAL DATE (DKT. NO. 804)**

Dept.: Courtroom 8, 19th Floor  
 Judge: The Honorable William H. Alsup

I, DAVID BOIES, declare as follows:

1. I am a Managing Partner in the law firm of Boies, Schiller & Flexner LLP, counsel for Oracle America, Inc. ("Oracle") in the present case. I submit this declaration in support of Oracle's Opposition to Google's Motion to Continue the Trial Date from April 16, 2012 to April 23, 2012.

2. I have knowledge of the facts set forth herein, and if called to testify as a witness thereto could do so competently under oath.

3. I am, along with Michael Jacobs from Morrison & Foerster LLP, lead trial counsel for Oracle in this case.

4. I reside in New York, and am admitted in this district for this case *pro hac vice*.

5. Ordinarily I would readily agree to a brief continuation of a trial date at opposing counsel's request. However, because of my schedule prior to September I cannot agree to a delay of this trial without risking being unavailable for the start of other previously scheduled trials.

6. I am also lead trial counsel for the defendants in *Invista B.V., et al. v. E.I du Pont de Nemours and Company*, 08 Civ. 3063 (SHS) (S.D.N.Y.). On September 27, 2011, Judge Stein scheduled that case for trial starting on June 4, 2012; the trial is expected to continue into July. I am also scheduled to appear as a witness in an unrelated case one day between June 6 and June 8, during which day there will be no trial.

7. I am also lead trial counsel for Oracle in another case proceeding in this District, *Oracle USA, Inc. v. SAP AG*, No. C07-1658-PJH, before Judge Hamilton. I was lead trial counsel in the original trial of that case which took place in November 2010. On February 28, 2012, the retrial was scheduled for June 18, 2012 and is expected to last two to three weeks. (The trial team in that matter includes Steven C. Holtzman, Fred Norton, and Beko Reblitz-Richardson, each of whom is a key member of the trial team in this case as well.) Judge Hamilton has agreed that the *SAP* trial will trail the previously scheduled *DuPont* trial.

8. I am also lead trial counsel for plaintiffs in *Rincon EV Realty LLC, et al. v. CP III Rincon Towers, Inc., et. al.*, No. CGC 10-496887, in California state court in San Francisco. On February 24, 2012, the court in that matter set that case to go to trial on June 25, 2012. That trial is expected to last two to three weeks.

1           9. I am also lead trial counsel for the defendants in *Capital One Financial Corp. v. Kanas*,  
2 No. 1:11-cv-750 (LO/TRJ) (E.D. Va.). That case is set for trial on July 23, 2012 and is expected to last  
3 one week to two weeks.

4           I declare under penalty of perjury that the foregoing is true and correct and that this declaration  
5 was executed on March 19, 2012 at New York, New York.

6  
7                               By: /s/ David Boies  
                                    DAVID BOIES

BOIES, SCHILLER & FLEXNER LLP  
OAKLAND, CALIFORNIA

ATTESTATION OF FILER

I, Steven C. Holtzman, have obtained David Boies's concurrence to file this document on his behalf.

Dated: March 19, 2012

BOIES, SCHILLER & FLEXNER LLP

By: /s/ Steven C. Holtzman  
Steven C. Holtzman

*Attorneys for Plaintiff*  
ORACLE AMERICA, INC.

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